

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT**

LIST E

S CI 2011 6762

**IN THE MATTER OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS
APPOINTED) (IN LIQUIDATION) ACN 063 263 650**

**WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) ACN 063 263 650 IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY AS
MANAGER OF THE UNREGISTERED SCHEMES LISTED IN SCHEDULE 3
AND ORS ACCORDING TO SCHEDULE 1**

Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 22 December 2011

Filed on behalf of: the Receivers

Prepared by:


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This is the exhibit marked '**BW-18**' now produced and shown to **BRYAN WEBSTER** at the time of affirming his affidavit on 22 December 2011.

Before me





AMELIA JANE ROBERTS
of 530 Collins Street, Melbourne
Victoria 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

**'BW-18' copy of letter
from AAR to Mallesons
dated 19 April 2011**

19 April 2011

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Dear Joanne

Willmott Forests Limited (Receivers and Managers Appointed) (In Liquidation) ACN 063 263 650 (WFL)

We refer to your letter dated 18 April 2011 in which you stated, amongst other things, that "the deadline for HVP, the Liquidators and the Willmott parties signing the Implementation Deed is 5.00 pm on Tuesday 19 April 2011".

Our letter of 14 April 2011, together with the letter from Bryan Webster, on behalf of the Receivers, to the Liquidators dated 11 April 2011 (a copy of which was attached to our letter of 14 April 2011), confirmed the Receivers' position in connection with HVP's offer (the *HVP Offer*) to acquire the trees occupying HVP land used in connection with certain managed investment schemes operated by the Willmott Forests Group, together with a full surrender of the leases (or sub-leases/sub-licences) entered into by WFL in respect of that land (the *HVP Leases*).

That position, in summary (but without prejudice to the other points set out in that correspondence), is that the Receivers will not agree to provide a surrender of the HVP Leases in the absence of an acceptable payment in consideration of any such surrender.

In the circumstances, particularly in the absence of any satisfactory response from the Liquidators to Mr Webster's letter dated 11 April 2011, the Receivers do not consider it necessary or appropriate at this time for them to provide detailed comments on the draft Implementation Deed (the most recent version of which, entitled "MSJ DRAFT No. 8: 12 April 2011", was provided to the Receivers under cover of an email dated 14 April 2011 from Jane Sheridan of Arnold Bloch Leibler on behalf of the Liquidators to Matthew Whittle of this firm on behalf of the Receivers).

Without prejudice to that position, and without prejudice to the Receivers' right to provide further comments on this document if in due course it becomes appropriate to do so, the Receivers consider it is in the interests of all parties to make the following 'high level' observations in relation to the draft Deed. These observations should be considered in conjunction with (and in addition to) the matters set out in Mr Webster's letter to the Liquidators dated 11 April 2011 and in our letter to you dated 23 March 2011, and should be regarded as matters that will need to be taken into

Our Ref CCHM:EVBM:120090098

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account if the Receivers are to contemplate giving a surrender of the HVP Leases and any form of release in favour of HVP.

1. The reference to WFL in its personal capacity in the list of parties set out in the "Details" section of the draft Deed suggests, contrary to the fact, that it is the Liquidators, and not the Receivers, that are authorised to bind WFL in that capacity.
2. The description of the lease and sub-licence agreements forming part of the Terminating Documents, as set out in Schedule 3 of the draft Deed, states, contrary to the fact, that WFL entered into these agreements in its responsible entity, and not its personal, capacity.
3. Contrary to:
 - (a) the terms of item 4 appearing under the heading, "Outstanding information required", on page 1 of the draft Deed (i.e. "Confirmation from Willmott as to whether no allocation of consideration to termination of leases is acceptable (ABL)");
 - (b) the process contemplated by sub-paragraph (b) of the definition of "Second Judicial Advice" in clause 1.1 of the draft Deed; and
 - (c) the stated purpose of the Consideration payable by HVP as set out in clause 4.3(b) of the draft Deed,

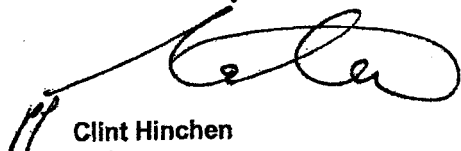
the Deed must recognise (as noted in the Receivers' letter to the Liquidators dated 11 April 2011) that the Consideration is attributable in full to the Receivers' interest in the HVP Leases. To that end, on Implementation, contrary to what appears to be contemplated by clause 2.2(e)(i) and 4.3 of the draft Deed, the Consideration must be payable to the Receivers rather than into an account nominated by the Liquidators.

We emphasise that the above observations represent only a small number of key points that occurred to the Receivers in undertaking a cursory review of the draft Deed. They should not be considered to represent an exhaustive list of the Receivers' comments on the document, nor the Receivers' agreement to the process or approach contemplated by the draft Deed as the means of facilitating the purpose of the draft Deed (as set out in clause 2.1).

As noted above, the Receivers reserve the right to make further comments on the draft Deed in due course, should it be appropriate to do so.

We trust that HVP and the Liquidators will have regard to the content of this letter, and previous correspondence sent on behalf of the Receivers in connection with the HVP Offer, in determining how to proceed with respect to the HVP Offer.

Yours sincerely



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